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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/381,143	10/22/1999	IAN CHARLES OGILVY	CU-2003	3561

26530 7590 07/14/2004

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CHICAGO, IL 60604

EXAMINER

NGUYEN, PHUOC H

ART UNIT	PAPER NUMBER
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2143

24

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/381,143

Applicant(s)

OGILVY, IAN CHARLES

Examiner

Phuoc H. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 and 16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 16-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Amendment***

This office action is in response to the amendment filed on April 27, 2004 (Paper No. 23). Previous office action contained claims 1-12, and 16-21. Amendment filed on April 27, 2004 have been entered and made of record. Therefore, pending claims 1-12, and 16-21 are presented for further consideration and examination.

### ***Response to Arguments***

Applicants' arguments with respect to currently amended claims 1-12, and 16-21 have been considered but are moot in view of the ground(s) rejection.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-12, and 16-21 rejected under 35 U.S.C. 102(e) as being anticipated by Stern et al. U.S. Patent 5,935,249.

3. Regarding claims 1,16, and 18, Stern reference discloses a virtual machine (java virtual machine) means which includes a virtual function processor and function processor instructions

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for controlling operation of the device (col. 7, lines 1-4), and a virtual message processor which is arranged to be called by the function processor and which is arranged to carry out the task of assembling, disassembling and comparing messages (eg. intercepted, interpreted and processed by virtual machine), whereby when a message is required to be handled by the communications device the message processor is called to carry out the message handling task (col. 7, lines 16-35), wherein the virtual machine means is emulatable in different computers having incompatible hardwares or operating systems (col. 6, lines 18-23).

4. Referring to claim 2, 17, 19-21, Stern reference discloses a virtual protocol processor arranged to organize communications to and from the device, and protocol processor instruction means arranged to provide directions for operation of the protocol processor means (col. 7, lines 16-35; and col. 9, lines 40-44).

5. Referring to claim 3 and 5, Stern reference discloses the device includes a microprocessor which runs in accordance with native software code, and the message processor is implemented as the native software code of the microprocessor, and the function processor is implemented as native code of the microprocessor (col. 5, lines 34-56; col. 9, 2<sup>nd</sup> paragraph).

6. Referring to claim 4, Stern reference discloses the device includes a microprocessor, which runs in accordance with native software code, and the protocol processor is implemented as a native software code of the microprocessor (col. 5, lines 34-56; col. 9, 2<sup>nd</sup> paragraph; and col. 9, lines 40-44).

7. Referring to claim 6, Stern reference discloses the message instruction means includes a set of descriptions of message data (col. 7, lines 59-62; and col. 8, lines 10-16).

8. Referring to claim 7, and 9, Stern reference discloses the message processor instruction means is implemented in software defined by the message processor, wherein the device includes a

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microprocessor, and wherein the message instructions means do not require translation to the native software code of the microprocessor (col. 5, 3<sup>rd</sup> paragraph); and the device includes a microprocessor which runs in accordance with native software code, and wherein the function processor instruction means are implemented in software defined by the function processor means and do not require translation to the native code of the microprocessor (col. 5, 3<sup>rd</sup> paragraph).

Referring to claim 8, Stern reference disclose the device includes a microprocessor which runs in accordance with native software code and wherein the protocol instruction means are

9. implemented in software defined by the protocol processor means, and do not require translation to the native code of the microprocessor (col. 5, lines 49-56).

10. Referring to claim 10, Stern reference discloses a hardware abstraction layer comprising a series of routines which provide an application program interface to exercise an operating system, BIOS or hardware drivers of the device (col. 11, lines 16-22).

11. Referring to claim 11, and 12, Stern further discloses the device is a specialized network access device arranged for communicating over a network (col. 2, lines 41-51); and the device being a remote payment terminal and the messages being messages relating to remote payment transactions (col. 9, lines 32-40).

### ***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hughes et al. U.S. Patent 5,336,870

Wilkinson et al. U.S. Patent 6,308,317

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Echensperger et al. U.S. Patent 6,199,160

Rosen U.S. Patent 5,745,886


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phuoc H. Nguyen whose telephone number is 703-305-5315. The examiner can normally be reached on Mon -Thu ( 7AM-4:30PM ) and off every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Phuoc H. Nguyen  
Examiner  
Art Unit 2143

November 21, 2003



DAVID WILEY  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100